

REMARKS

Applicants' representative thanks the Examiner for courtesies extended during the phone conference on September 24, 2009, with Francis Dunn. During the phone conference, there was discussion regarding rejection of claims 9, 10, 40, and 54-63 in the instant Office Action, wherein it was noted that, while these claims were rejected on a general basis, these claims were not rejected on a specified basis (e.g., generally rejected, but not rejected on grounds of nonstatutory double patenting). The Examiner indicated that this information could be noted in the Reply, and further opined that if a terminal disclaimer was filed, all of the pending claims would stand allowed thereby essentially rendering such point regarding rejection of the claims moot. There also was discussion regarding filing a terminal disclaimer in light of the Examiner indicating that the pending claims would be allowable if a terminal disclaimer was filed. There further was discussion regarding proposed non-substantive amendments to certain of the pending claims for grammatical purposes.

Applicants' representative also would like to thank the Examiner for indicating, in the instant Office Action, that the pending claims would be allowable if the rejection of the claims on the alleged ground of non-statutory obviousness-type double patenting is overcome.

Claims 1-23 and 40-79 are currently pending in the subject application and are presently under consideration. Claims 1, 6-10, 16, 19-22, and 79 have been amended as shown on pages 2-14 of the Reply. The amendments to these claims herein are non-substantive in nature and are made primarily for grammatical purposes. Claims 24-39 are canceled.

Favorable reconsideration of the subject patent application is respectfully requested in view of the comments and amendments herein.

I. Provisional Rejection of Claims 1-8, 11-23, 41-53, and 64-79 on the Alleged Ground of Nonstatutory Double Patenting

Claims 1-8, 11-23, 41-53, and 64-79 stand provisionally rejected on the alleged ground of non-statutory obviousness-type double patenting as being unpatentable over certain specified claims of co-pending U.S. Application No. 11/747,131. Applicants' representative respectfully disagrees with the rejection of the subject claims and respectfully submits the subject claims are patentably distinct from the certain specified claims of U.S. Application No. 11/747,131, as stated in the Office Action dated July 22, 2009. However, to expedite favorable prosecution of

the instant patent application, a terminal disclaimer, with regard to the instant patent application and relating to co-pending U.S. Application No. 11/747,131, is filed concurrently herewith and is incorporated herein by reference. It should be noted that the Office Action dated July 22, 2009, also generally rejects claims 9, 10, 40, and 54-63, although no specified grounds for such rejection are presented. Accordingly, it is believed that the subject claims are in condition for allowance and the rejection of the subject claims should be withdrawn.

CONCLUSION

The present application is believed to be in condition for allowance in view of the above comments and amendments. A prompt action to such end is earnestly solicited.

In the event any fees are due in connection with this document, the Commissioner is authorized to charge those fees to Deposit Account No. 17-0026.

Should the Examiner believe a telephone interview would be helpful to expedite favorable prosecution, the Examiner is invited to contact applicants' undersigned representative at the telephone number below.

Respectfully submitted,



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Dated: September 28, 2009

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